

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$40,200.00 IN UNITED STATES CURRENCY,

Defendant.

ERIK L. CHRISTENSEN,

Claimant.

Case No. 3:14-CV-0229-LRH (VPC)

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE  
JUDGE**

This Report and Recommendation is made to the Honorable Larry R. Hicks, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. On March 30, 2015, this court issued an order to show cause why a default judgment should not be entered against claimant Erik L. Christensen (“claimant” or “Mr. Christensen”) for failing to comply with this court’s order in accordance with Local Rule IA 4-1(d) and why the amended answer should not be stricken and default judgment be entered in accordance with Fed.R.Civ.P. 37(b)(2)(A)(iii) (#47).<sup>1</sup> Claimant filed a response (#49), and plaintiff, the United States of America (the “government”) filed a reply in support of the order to show cause (#50).

<sup>1</sup>The court notes that the order to show cause (#47) referred only to Fed.R.Civ.P. 37(b)(2)(A)(iii), and through inadvertence, omitted reference to Fed.R.Civ.P. 37(b)(2)(A)(vi). This court nevertheless considers sanctions under both subsection (iii) and (vi). The claimant acknowledged in his response to the order show cause, that he had actual notice that sanctions were sought for a default judgment and for and order striking the amended answer. See Claimants (sic) response to order to show cause (#49, p. 1, lines 13-18; p. 5, lines 7-9).

1                   **I. Procedural History**

2           The government brought an *in rem* civil forfeiture action of the defendant currency  
3 totaling \$40,200 that local law enforcement in Washoe County seized from the claimant in  
4 November 2013 following a routine traffic stop (#1). Robert Lindsay, Esq., counsel for claimant  
5 (“Mr. Lindsay”), filed an answer (#9) and a claim (#13) to the complaint on behalf of the  
6 claimant, and then he later filed an amended answer (#14). This court issued a discovery plan  
7 and scheduling order, and it set the discovery deadline for January 15, 2015 (#22).

8           In his amended answer, claimant stated the following:

9                   1. The seized funds should be returned to him because the funds are “the  
10 legitimate product of business sales of the ‘Whip Trimmer’” (#9, p. 3, lines 11-12);

11                   2. The seized funds should be returned to him because the funds “were from sales  
12 of a machine, “Whip Trimmer,” which ERIK CHRISTENSEN invented, manufactured, and sold  
13 (#9, p. 3, lines 17-18); and

14                   3. “The business records, order forms, and literature taken from [Christensen’s]  
15 car on November 23, 2014 (sic), by law enforcement reflect legal and legitimate business records  
16 for the ‘Whip Trimmer’ sales that ERIK CHRISTENSEN was conducting” (#9, p. 3, lines 27-  
17 28).

18           In another filing with the court, Christensen stated at the time of the seizure of the  
19 currency, he had with him “business cards,” which bore his name and the Whip Trimmer name,  
20 as well as the business telephone number (#17, p. 7). He also stated that the seized funds were  
21 the “legitimate earnings from the sale of the Whip Trimmer by Erik Christensen.” *Id.* at 8. He  
22 characterized the November 2013 travel as a “business trip,” and he attached a document, which  
23 included his own characterization of “Occupation – Business Owner” and his own description of  
24 “Business Name – Whip Trimmer.” *Id.* at 9; #17-1, p.4; #17-1, p.2.

25                   **A. The Disputed Discovery**

26           On August 22, 2014, the government propounded twenty interrogatories and five  
27 requests for production, all of which concerned requests for employment information, claimant’s  
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1 occupation, information about the Whip Trimmer business, bank and business records, his travel  
2 history, and other topics generally related to the forfeiture complaint and amended answer (#24;  
3 Addington Decl.). Although the parties agreed to a one-week extension for responses to the  
4 discovery, the United States did not receive the responses until November 14, 2014, nearly two  
5 months after the extended deadline. *Id.*; Addington Decl. Apart from being untimely, counsel  
6 for the United States found the responses incomplete, evasive, and otherwise deficient.  
7 Beginning November 19, 2014, counsel for the United States undertook efforts to meet and  
8 confer with Mr. Lindsay to resolve the dispute by sending a detailed email outlining the  
9 deficiencies with the responses. *Id.*, Addington Decl. Mr. Lindsay did not respond, so  
10 government counsel left messages for him, and the two finally spoke on November 25, 2015.  
11 *Id.*, Addington Decl. Mr. Lindsay acknowledged the responses were deficient and agreed to  
12 speak with the claimant the following week. *Id.*, Addington Decl. Email exchanges followed,  
13 and counsel for the parties once again discussed the disputed discovery on December 5, 2015.  
14 *Id.*, Addington Decl. Mr. Lindsay agreed to notify government counsel on December 5, 2014  
15 whether supplemental responses would be forthcoming, but there were no further  
16 communications. *Id.*, Addington Decl. Government counsel continued to call and email Mr.  
17 Lindsay, and on December 9, 2014, Mr. Lindsay reported that he had left a message with  
18 claimant and would advise whether supplemental responses would be provided. *Id.*, Addington  
19 Decl. Government counsel once again had no response from Mr. Lindsay, and in light of the  
20 fast-approaching discovery deadline of January 15, 2015, government counsel filed a motion to  
21 compel (#24).

22 Claimant responded to the motion to compel by filing a document styled as response, but  
23 it was actually a supplemental response to the disputed discovery (#27). In fact, claimant  
24 proffered no points and authorities at all; rather, he submitted supplemental discovery responses,  
25 presumably aimed at correcting the deficiencies in initial responses. In reply, government  
26 counsel noted the following: (1) the response failed to comply with Local Rule 7-2(d) because it  
27 contained no points and authorities; (2) the supplemental answers to interrogatories were  
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1 unverified; and, (3) the responses simply did not cure the deficiencies outlined in detail in  
2 November (#28). Government counsel also asked for a hearing (#29), and one was set for  
3 February 13, 2015 (#30).

4 **B. February 13, 2015 Hearing**

5 At the February 13, 2015 hearing, the court granted the government's motion to compel  
6 and ordered claimant to provide supplemental discovery by the close of the business day on  
7 Friday, February 20, 2015 (#31). The court also noted that claimant had waived his right to  
8 interpose objections to the discovery, and it set a compliance hearing for February 27, 2015. *Id.*  
9 Mr. Christensen was ordered to be present in person for that hearing; however, if the  
10 supplemental discovery was provided and deemed satisfactory, the parties could request that the  
11 hearing be vacated. *Id.* Finally, while the court awarded attorney's fees and costs to the  
12 government for the preparation of the motion to compel, it deferred the filing of a statement of  
13 fees and costs until the discovery dispute was resolved. *Id.*

14 The government filed a status report following the February 13th hearing and advised  
15 that the claimant provided no supplemental responses, that there had been no communications  
16 from the claimant's attorney, and that the discovery responses remained deficient as earlier  
17 reported (#32). The court then proceeded with the February 27, 2015 hearing, at which the  
18 dispute became even more complicated.

19 **C. February 27, 2015 Hearing**

20 Both Mr. Christensen and Mr. Lindsay were present for this hearing, as well as  
21 government counsel. Mr. Lindsay began by telling the court that he and his client had developed  
22 an irreconcilable conflict, and Mr. Christensen agreed (#34). The court granted Mr. Lindsay's  
23 oral motion to withdraw as counsel, and Mr. Christensen advised he would appear *pro se*. *Id.*  
24 Mr. Christensen told the court that he had all of the documents responsive to the discovery  
25 requests; therefore, the court took a recess to allow Mr. Christensen and government's counsel to  
26 meet and confer. *Id.* After the recess, government counsel told the court that Mr. Christensen  
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1 intended to retain new counsel within the next two weeks and that Mr. Christensen intended to  
2 provide the documents to the government as soon as possible. *Id.*

3 The court set a hearing for March 27, 2015, directed the parties to file joint or separate  
4 status reports before the hearing, and ordered Mr. Christensen's new attorney be present at that  
5 hearing. *Id.* If Mr. Christensen did not retain new counsel, the court ordered him to be present  
6 personally for that hearing to represent himself. *Id.*<sup>2</sup> Finally, the court ordered the government  
7 to file a statement of attorney's fees and costs, and allowed Mr. Christensen an opportunity to  
8 respond. *Id.*

9 **D. March 27, 2015 Hearing**

10 In advance of the March 27th hearing, the government filed a discovery status report as  
11 ordered by the court (#44). The government recounted the recently filed motions to dismiss and  
12 motion to strike, and reported there had been no communication about the claimant's possible  
13 substitution of counsel. *Id.* The government also claimed that Mr. Christensen continued to be  
14 deceptive in his discovery responses as to interrogatory nos. 8 and 9 and request for production  
15 no. 3. *Id.* The government set out Mr. Christensen's responses and commented:

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17 Christensen cannot be allowed to assert a claim in this  
18 action based on his representations that he conducted a business  
19 and earned income through his invention, manufacture, and sale of  
20 the "Whip Trimmer" device and then avoid his discovery  
21 obligations by asserting that he neither owned nor operated any  
22 business associated with the manufacture, distribution, or sale of  
23 the Whip Trimmer device. It is the United States' view that  
24 Christensen's current discovery responses represent a continuation  
25 of his deliberate, willful, and persistent disregard for his discovery  
26 obligations and this Court's orders. Christensen's litigation  
27 conduct merits imposition of further sanctions pursuant to Rule  
28 37(d)(3), including an order to show cause why his claim and

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26 <sup>2</sup>Mr. Christensen did not obtain new counsel; however, he filed a motion to dismiss the  
27 forfeiture proceedings (#37), which the District Court denied (#53) along with the identical  
28 earlier filed motion to dismiss (#33), which the District Court denied as moot. Mr. Christensen  
also filed a motion to strike his earlier-filed response to motion to compel (#27) on the ground  
that he had no knowledge that Mr. Lindsay filed it on his behalf. The court denied the motion  
(#48).

1                   answer should not be stricken and default entered or other relief  
2                   permissible under Rule 37(b)(2)(A)(i)–(vii).

3     *Id.* at pages 4-5.

4             Mr. Christensen, appearing in *pro se*, filed nothing prior to the hearing. The court recited  
5     the chronology of this discovery dispute and advised it would issue an order to show cause why a  
6     default judgment should not be entered against Mr. Christensen for failing to comply with this  
7     court's order (#31) pursuant Local Rule IA 4-1(d) and why the amended answer should not be  
8     stricken and a default judgment be entered pursuant to Fed.R.Civ.P. 37(b)(2)(A)(iii) (#46). The  
9     court set a briefing schedule for the order to show cause, which was issued on March 30, 2015  
10    (#47).

### 11                   ***E.     Show Cause Briefs***

12            In response to the order to show cause, Mr. Christensen filed a response that essentially  
13    summarized the discovery responses he had supplied to date and concluded that he had  
14    responded to the best of his ability (#49). The response was not verified nor was a declaration  
15    provided to attest to the truthfulness of his statements. The government responded with a  
16    chronology of its repeated attempts to obtain discovery responses and noted the contradictory  
17    representations Mr. Christensen made to the court throughout the case (#50). Based upon Mr.  
18    Christensen's consistent position that he not be required to comply with court orders and that he  
19    be allowed to disregard discovery obligations, the government asked for an order striking the  
20    amended answer, that a corresponding default judgment of forfeiture be entered, and that Mr.  
21    Christensen be ordered to pay the government's attorney's fees in the amount of \$2,368.00. *Id.*

22            This report and recommendation now follows.

### 23                   **II.     Discussion and Analysis**

24            This case is proceeding pursuant to the Civil Asset Forfeiture Reform Act of 2000, 18  
25    U.S.C. § 983, and it governs all *in rem* civil forfeiture proceedings commenced on or after  
26    August 23, 2000. See *United States v. Approximately \$1.67 Million (U.S.) In Cash*, 513 F.3d  
27    991, 998 (9th Circuit. 2008).

As the Ninth Circuit has held, the Federal Rules of Civil Procedure apply to civil forfeiture actions to the extent they are not inconsistent with the Supplemental Rules. *United States v. \$133,420.00 in U.S. Currency*, 672 F.3d 629, 635 (9<sup>th</sup> Cir. 2012); *United States v. 2,164 Watches, More or Less, Bearing a Registered Trademark of Guess?, Inc.* 366 F.3d 767, 771-72 (9<sup>th</sup> Cir. 2004). That is, where the Supplemental Rules “are silent” on a particular question, the Federal Rules apply. *2,164 Watches*, 366 F.3d at 772. Other circuits share this approach. See *United States v. All Funds on Deposit with R.J. O’Brien & Assocs.*, 783 F.3d 607, 619 (7<sup>th</sup> Cir. 2015); *United States v. \$8,221,877.16 in U.S. Currency*, 330 F.3d 141, 149 (3d Cir. 2003).

Because Rule 37 is not inconsistent with the Supplemental Rules, federal district courts have relied on Rule 37 to impose sanctions, including default judgment, for gross abuse of the discovery process. See *United States v. \$4,656,085.10 in Bank Funds*, No. SACV 12-0219-DOC, 2014 WL 5393858, at \*3-6 (C.D. Cal. Sept. 15, 2014) (striking the claim and granting default judgment); *United States v. \$19,000 in U.S. Currency*, No. 10-03009, 2012 WL 5286888, at \*1-2 (C.D. Ill. Oct. 23, 2012) (same); *United States v. \$9,781.41 Formerly on Deposit at Man Financial, Inc.*, No. 07 Civ. 6224, 2009 WL 1684695, at \*3-5 (S.D.N.Y. June 16, 2009) (“Rule 37 sanctions are available in civil forfeiture actions.”); *United States v. Proceeds of Drug Trafficking Transferred to Certain Foreign Bank Accounts*, 252 F.R.D. 60, 63 (D.D.C. 2008) (reasoning that the circumstances merited striking the claimant’s reply and dismissing his claim under Rule 37); *United States v. U.S. Currency in the Amount of \$600,341.00*, 240 F.R.D. 59, 62-63 (E.D.N.Y. 2007) (granting the Government’s Rule 37 motion for dismissal).

Rule 37(b)(2)(A)(i-vii) of the Fed.R.Civ.P. outlines possible sanctions a court may impose for a party’s failure to comply with a court order:

(2) *Sanctions Sought in the District Where the Action is Pending.*

(A) *For Not Obeying a Discovery Order.* If a party of a party’s officer, director, or managing agent—or a witness designated under Rule 30(b)(6) or 31(a)(4)—fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), the court where the action is pending may issue further just orders. They may include the following:

- (i) Directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;
- (ii) Prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) Striking pleadings in whole or in part;
- (iv) Staying further proceedings until the order is obeyed;
- (v) Dismissing the action or proceeding in whole or in part;
- (vi) Rendering a default judgment against the disobedient party;
- or
- (vii) Treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

In this case, the government asks for the extreme sanctions of striking the amended answer and entering a default judgment against Mr. Christensen pursuant to Fed.R.Civ.P. 37(b)(2)(A)(iii) and (vi). Because such sanctions against a defendant (or claimant) are very severe, “[o]nly willfulness, bad faith, and fault” justify such sanctions. *Connecticut General Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007) (citing *Jorgensen v. Cassidy*, 320 F.3d 906, 912 (9th Cir. 2003)). The Ninth Circuit has created a five-part test, with three subparts to the fifth part, to decide whether case-dispositive sanctions under Rule 37(b)(2) are warranted: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its dockets; (3) the risk of prejudice to the party seeking sanctions; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” *Connecticut General*, 482 F.3d 1091, 1096 (9th Cir. 2007); *Jorgensen v. Cassidy*, 320 F.3d 906, 912 (9th Cir. 2003) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)). “The subparts of the fifth factor are whether the court has considered lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the possibility of case-dispositive sanctions.” *Connecticut General*, 482 F.3d 1091, 1096; *Valley Eng’rs. v. Electric Eng’g Co.*, 158 F.3d 1051, 1057 (9th Cir. 1998). This is not a mechanical test; rather, it provides a guide to the district court consider what to do, as opposed to “a set of conditions

1 precedent for sanctions or a script that the district court must follow.” *Connecticut General*, 482  
2 F.3d at 1095. The court now turns to the *Malone* factors.

3 **A. *The public’s interest in expeditious resolution of litigation***

4 The government filed this *in rem* forfeiture action in April 2014 (#1), claimant filed his  
5 answer (#7) in May 2014, followed by a notice of claim (#13) and an amended answer (#14),  
6 both of which were filed in June 2014. The court held a case management conference on July  
7 28, 2014, and entered a scheduling order, which set a discovery deadline of January 15, 2015  
8 (#22). In August, the government sent out written discovery concerning the allegations and  
9 denials in the amended answer. Claimant did not respond to the discovery requests until two  
10 months after an agreed-upon deadline, and the government felt the responses were incomplete  
11 and evasive. Government counsel immediately embarked on the meet-and-confer process, which  
12 went on for several weeks without success. Facing the impending discovery deadline,  
13 government counsel filed a motion to compel the discovery to protect his client’s rights. The  
14 response, filed in late December, did not include points and authorities, and the purported  
15 discovery responses offered in lieu of an actual response were of no use, as they were not  
16 verified and did not cure the original deficiencies of the response. No doubt frustrated,  
17 government counsel requested a hearing, which was set for February 13, 2015, six months after  
18 the government sent the discovery requests to claimant.

19 The court granted the motion to compel, awarded attorney’s fees to the government, but  
20 deferred briefing on the amount; instead, the court ordered claimant to provide the disputed  
21 discovery responses within five days and set a compliance hearing for February 27, 2015 (#31).

22 If claimant did not comply, the court ordered that Mr. Christensen appear personally for  
23 the hearing, but also noted that if the discovery responses were provided, the parties could ask  
24 the court to vacate the hearing. *Id.* In response, claimant did nothing – there was no further  
25 communication with government counsel, and there were no supplemental discovery responses  
26 (#32).  
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1           At the February 27, 2015 hearing, the claimant and his attorney basically blamed one  
2 another for the failure to respond to the discovery initially and thereafter. It was abundantly  
3 clear that the attorney-client relationship had deteriorated to the point the court granted the oral  
4 motion of claimant's counsel to withdraw (#34). Since Mr. Christensen was now acting in *pro*  
5 *se*, the court gave him an opportunity to retain new counsel, to resolve the discovery dispute, and  
6 set yet another hearing for March 27, 2015. *Id.*

7           The March 27, 2015 hearing was the third hearing about this discovery dispute. The  
8 claimant filed nothing in anticipation of the hearing, but the government reported that Mr.  
9 Christensen continued to be evasive and deceptive in his responses (#44). At this point, the court  
10 ordered Mr. Christensen to show cause why he should be not sanctioned pursuant to  
11 Fed.R.Civ.P. 37(b)(2) and set a briefing schedule, which resulted in this report and  
12 recommendation (#47).

13           The record demonstrates that despite the government's efforts to obtain discovery, the  
14 claimant repeatedly ignored those requests, failed to participate in a meaningful way, and simply  
15 delayed and delayed the discovery process for months on end. The court attempted to assist the  
16 parties by scheduling prompt hearings to assist in resolving this dispute, to no avail.

17           This factor weighs in favor of the government.

18           ***B. The court's need to manage its dockets***

19           This court's practice is to convene a case management conference with the parties shortly  
20 after the answer is filed to discuss, among other things, the discovery plan and scheduling order,  
21 to inquire about particular issues of concern to the parties in the case itself, to offer an early  
22 settlement conference if requested, and to otherwise become familiar with counsel and the case.  
23 This court is also amenable to resolving discovery disputes at expedited hearings and in assisting  
24 the parties in complying with deadlines. This oversight of the case educates the court at the early  
25 stages about the case, and it affords counsel an opportunity to work efficiently and cost  
26 effectively prior to the discovery deadline. The court needs to manage civil cases so that the  
27 parties are best served through a process that is flexible, accessible, and saves time and money.  
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1 While the court needs to manage its docket, the beneficiaries of this oversight are the parties who  
2 presumably want to resolve their lawsuit sooner rather than later.

3 This factor is neutral.

4 ***C. The risk of prejudice to the party seeking sanctions***

5 In this *in rem* civil forfeiture proceeding, the government was entitled to conduct standard  
6 discovery about the facts alleged in the claimant's amended answer. The government sought the  
7 discovery promptly, gave one extension, and then tried in vain to obtain the claimant's  
8 cooperation to complete this phase of the case. The prejudice to the government is obvious: if it  
9 has incomplete, evasive answers going to the very substance of the claimant's position that he is  
10 entitled to the return of the disputed funds, the case cannot proceed. This is exactly what  
11 occurred here.

12 This factor favors the government.

13 ***D. The public policy favoring disposition of cases on their merits***

14 It is axiomatic that cases should be disposed of in their merits; the problem here is that  
15 the claimant was evasive, posited completely contradictory positions in his amended answer and  
16 his responses to the discovery, and then claimant and his attorney blamed one another for all that  
17 went wrong in this case. Despite all of that, the discovery dispute was never resolved to the  
18 satisfaction of the government or the court.

19 This factor favors the government.

20 ***E. The availability of less drastic sanctions***

21 ***1) Whether the court considered lesser sanctions***

22 Like most courts, this court is loathe to issue sanctions, much less case-ending sanctions.  
23 For that reason, the court held three hearings to assist the parties in resolving the discovery  
24 dispute. However, what seemed at first to be an innocuous dispute turned into a situation in  
25 which the claimant's counsel repeatedly failed to communicate with government counsel, and he  
26 allowed deadlines to pass and ignored Local Rules of Practice. When claimant and his attorney  
27 parted company, the court allowed the claimant to find a new attorney and offered him yet  
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1 another opportunity to resolve the dispute. The court granted the government's motion to  
2 compel but deferred consideration of attorney's fees in the hope that the parties would resolve  
3 the dispute. Through it all, the claimant remained either uninformed or unfazed.

4 This sub-part favors the government.

5 2) *Whether the court tried lesser sanctions*

6 The court did so, as recounted above.

7 This factor favors the government.

8 3) *Whether the court warned the recalcitrant party*  
9 *about the possibility of case-dispositive sanctions*

10 Throughout this process, the court warned claimant and his counsel that sanctions  
11 would be issued if they did not provide adequate discovery responses. Having earlier granted the  
12 government's motion to compel and request for attorney's fees, claimant's conduct left the court  
13 no choice but to issue an order to show cause why sanctions should not be imposed pursuant to  
14 Fed.R.Civ.P. 37(b), which included case-ending sanctions. Claimant did nothing to rectify the  
15 deficiencies in his responses and instead filed a statement claiming that this was a truthful  
16 recitation of the following:

17 a. He has not been employed in any capacity since  
18 January 1, 2012;

19 b. He has not received any compensation for any  
20 business entity since prior to January 1, 2012;

21 c. He has never been an officer of the Whip Trimmer  
22 Company;

23 d. He was entrusted with possession of property  
24 owned by the Whip Trimmer Company on a consignment basis;

25 e. He has no paperwork or documentation of any  
26 business operated by the claimant;

27 f. The \$40,200 was derived from legitimate sales of a  
28 business that is not and has never been owned or operated by the  
claimant;

g. He has received no compensation for this assistance in the manufacture, distribution, or sale of the Whip Trimmer from January 1, 2012 to the present;

i. He has provided all documents in his possession pertaining to the government's request for production of documents;

j. He never stated that he conducted a business; and

k. He has not earned income through the invention, manufacture, and sale of the Whip Trimmer device.

Claimant did not provide a declaration or an affidavit attesting to the truthfulness of his statement (#49), and the statement completely contradicts claimant's answer and amended answer (#14).

This factor favors the government.

### **III. Conclusion**

"The most critical factor to be considered in case-dispositive sanctions is whether 'a party's discovery violations make it impossible for a court to be confident that the parties will ever have access to the true facts.'" *Connecticut General*, 482 F.3d at 1097 (citing *Valley Eng'rs v. Electric Eng'g Co.*, 158 F.3d 1051, 1058 (9th Cir. 1998)). Mr. Christensen's pattern of failing to respond to basic discovery that goes to the core of his defense make it impossible for the government to proceed or for the court to consider a dispositive motion or preside over a trial. The court imposed lesser sanctions and offered Mr. Christensen multiple opportunities to properly respond to discovery to no avail. Therefore, the court concludes that case-ending sanctions are proper in this case.

The parties are advised:

1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice, the parties may file specific written objections to this Report and Recommendation within fourteen days of receipt. These objections

1 should be entitled "Objections to Magistrate Judge's Report and  
2 Recommendation" and should be accompanied by points and authorities  
3 for consideration by the District Court.  
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5 2. This Report and Recommendation is not an appealable order and any notice of  
6 appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court's  
7 judgment.

8 **IV. Recommendation**

9 **IT IS THEREFORE RECOMMENDED** that the District Court strike claimant Erik L.  
10 Christensen's amended answer (#14) and enter default judgment of forfeiture in accordance with  
11 Fed.R.Civ.P. 37(b)(2)(A)(iii) and (vi).

12 Dated: June 22, 2015.

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14 UNITED STATES MAGISTRATE JUDGE  
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